



April 17, 2020

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comments on March 30, 2020 Petition for Expedited Declaratory Ruling, Clarification or Waiver Filed by the American Bankers Association, et al. – CG Docket Number 02-278

Dear Ms. Dortch:

This notice concerns an important petition¹ (Petition) filed with the Federal Communications Commission (FCC or Commission) on March 30 by a coalition of financial trade associations, including the Mortgage Bankers Association (MBA). The Petition seeks:

an expedited declaratory ruling, clarification, or waiver stating that phone calls and text messages placed by banks, credit unions, and other customer-facing financial services providers (collectively, financial institutions) using an automatic telephone dialing system (autodialer) or prerecorded or artificial voice on matters related to the COVID-19 pandemic are “call[s] made for emergency purposes,” and thus may be placed without the consent of the called party, pursuant to 47 U.S.C. § 227(b)(1)(A) (Emergency Purposes Exception, or Exception).

In response to the Petition’s request, the FCC announced a comment period which, including the deadline for reply comments, extends to May 21. While MBA commends the Commission for its willingness to consider the Petition, more immediate action is necessary to avoid considerable consumer harm. MBA urges the Commission to act without delay to provide the relief requested in the petition.² Waiting until the comment period closes on May 21—roughly

¹ Pet. of the Am. Bankers Ass’n et al., *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278 (2020), https://ecfsapi.fcc.gov/file/10330137314199/ABA_JointTrades_Petition_Emergency_Purposes_Exception_2020_03_30_final.pdf (petition filed by the American Bankers Association, American Financial Services Association, Consumer Bankers Association, Credit Union National Association, Independent Community Bankers of America, Mortgage Bankers Association, and National Association of Federally-Insured Credit Unions).

² This could be accomplished through an interim declaratory ruling, an option available to the FCC under 47 C.F.R. § 1.2, which provides that the Commission may “on [a party’s] motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty”).

six weeks from now—deprives consumers of crucial information for far too long. Financial institutions must be allowed to deliver COVID-19-related information to consumers *now*.

There is broad stakeholder consensus on the need for TCPA relief. Last week, a group of “six national advocacy organizations representing low- and middle-income consumers” submitted a letter expressing support for the Petition given “the extraordinary and particularly awful circumstances of this pandemic[.]”³ The group, led by the National Consumer Law Center (NCLC), urged the Commission to act “as expeditiously as possible[.]”

These are extraordinary circumstances. The pandemic’s unprecedented effects on public health and economic well-being justify urgent action. Consumers need information now. Therefore, MBA joins NCLC and similarly aligned consumer advocacy and financial services organizations in urging the Commission to act swiftly to allow financial institutions to communicate COVID-related information to consumers under the TCPA’s “emergency purposes” exception.

If you have any questions, please contact Justin Wiseman, Associate Vice President and Managing Regulatory Counsel, at (202) 557-2854 or jwiseman@mba.org.

Sincerely,

s/Justin Wiseman

Justin Wiseman
Associate Vice President and Managing Regulatory Counsel
Mortgage Bankers Association
1919 M Street, NW
Washington DC 20036
(202) 557-2854

³ Letter from Margot Saunders, Senior Counsel, Nat’l Consumer Law Ctr., et al., to Marlene Dortch, Sec., Fed. Commc’ns Comm’n (Apr. 9, 2020), <https://ecfsapi.fcc.gov/file/10410571401794/Consumer%20Group%20Ex%20Parte%20on%20ABA%20petition%20on%20pandemic%20calls.pdf> (*ex parte* letter submitted on behalf of the National Consumer Law Center, Americans for Financial Reform Education Fund, Consumer Federation of America, Consumer Reports, Consumer Action, and the National Association of Consumer Advocates). The groups expressed support for the Commission “allowing, during the declared national emergency, limited numbers of automated calls” from financial institutions “for the purposes of alerting their customers to the callers’ offers” of forbearance, payment deferrals, fee waivers, extension or relaxation of repayment terms, or loan modifications on loans secured by homes or vehicles, with limits on the number of exempted calls that may be placed.